

**54-17-302 Approval of a significant energy resource decision required.**

- (1) If pursuant to Part 2, Solicitation Process, an affected electrical utility is required to conduct a solicitation for a significant energy resource or obtains a waiver of the requirement to conduct a solicitation under Section 54-17-501, but does not obtain a waiver of the requirement to obtain approval of the significant energy resource decision under Section 54-17-501, the affected electrical utility shall obtain approval of its significant energy resource decision:
  - (a) after the completion of the solicitation process, if the affected electrical utility is required to conduct a solicitation; and
  - (b) before an affected electrical utility may construct or enter into a binding agreement to acquire the significant energy resource.
- (2)
  - (a) To obtain the approval required by Subsection (1), the affected electrical utility shall file a request for approval with the commission.
  - (b) The request for approval required by this section shall include any information required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) In ruling on a request for approval of a significant energy resource decision, the commission shall determine whether the significant energy resource decision:
  - (a) is reached in compliance with this chapter and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (b)
    - (i) is reached in compliance with the solicitation process approved by the commission in accordance with Part 2, Solicitation Process; or
    - (ii) is reached after the waiver of the solicitation process as provided in Subsection 54-17-201(3); and
  - (c) is in the public interest, taking into consideration:
    - (i) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state;
    - (ii) long-term and short-term impacts;
    - (iii) risk;
    - (iv) reliability;
    - (v) financial impacts on the affected electrical utility; and
    - (vi) other factors determined by the commission to be relevant.
- (4) The commission may not approve a significant energy resource decision under this section before holding a public hearing.
- (5) Unless the commission determines that additional time to analyze a significant energy resource decision is warranted and is in the public interest, within 120 days of the day on which the affected electrical utility files a request for approval, the commission shall:
  - (a) approve the significant energy resource decision;
  - (b) approve the significant energy resource decision subject to conditions imposed by the commission; or
  - (c) disapprove the significant energy resource decision.
- (6) The commission shall include in its order under this section:
  - (a) findings as to the total projected costs for construction or acquisition of an approved significant energy resource; and
  - (b) the basis upon which the findings described in Subsection (6)(a) are made.

- (7) Notwithstanding any other provision of this part, an affected electrical utility may acquire a significant energy resource without obtaining approval pursuant to this section if it obtains a waiver of the requirement for approval in accordance with Section 54-17-501.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for approval of a significant energy resource decision under this section.

Amended by Chapter 374, 2008 General Session

Amended by Chapter 382, 2008 General Session